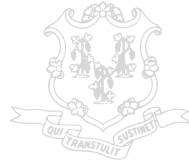


OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-78—sSB 1216

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING THE URBAN REINVESTMENT ACT AND THE
FEDERAL NEW MARKETS TAX CREDIT PROGRAM AND
CORRECTING AN EFFECTIVE DATE**

SUMMARY: Business taxpayers investing in certain business development projects may qualify for both state Urban and Industrial Sites Reinvestment (UISR) tax credits and federal New Markets tax credits. This act aligns some of the rules for the state tax credits with the federal ones for projects receiving investments eligible for both credits. It requires these projects to meet the state and federal eligibility criteria and subjects them to the federal rules for recapturing (i.e., repaying) tax credits.

The act also corrects an effective date in PA 10-98, which created the Bradley Airport Development Zone.

EFFECTIVE DATE: July 1, 2011

URBAN AND INDUSTRIAL SITE REINVESTMENT TAX CREDITS

Eligible Investments

By law, businesses that invest in an eligible urban and industrial sites project qualify for up to \$100 million in state UISR tax credits, depending on the amount of total tax revenue the project is projected to generate. The law allows businesses to invest directly or indirectly in a project through a state-registered investment fund or a qualified community development entity (CDE). A CDE is a business entity created to receive New Markets tax credits. Under prior law and the act, a CDE does not need to have received an allocation of New Markets tax credits to qualify for UISR credits.

The act creates a separate category of CDEs through which investors may claim UISR and New Markets credits for the same investment. These “contractually-bound” CDEs qualify for UISR credits if (1) they have entered into an allocation agreement with the Community Development Financial Institutions (CDFI) Fund for a share of New Markets tax credits and (2) their respective service areas in the allocation agreement include Connecticut.

Eligible Activities

By law, developers receiving investment capital eligible for UISR tax credits may use it to fund a wide range of costs and activities, including those associated with acquiring or leasing property, demolishing buildings, and cleaning up contaminated soil. The act limits the types of projects for which contractually-bound CDEs may receive UISR credits to only the activities, costs, and services (1) the law allows and (2) specified in the allocation agreement for the federal

credits.

A contractually-bound CDE must still apply to the Department of Economic and Community Development (DECD) commissioner and meet the existing geographic criteria and economic impact requirements to qualify for the UISR credits.

Recapture Requirements

By law, investments qualify for UISR credits based on a project's capacity to generate enough state tax revenue to cover the value of the credits. To determine whether the project accomplishes this, the DECD commissioner must conduct an annual economic impact study and, if the project has not generated sufficient tax revenue, may (1) revoke its eligibility certificate and (2) require each taxpayer to recapture its pro rata share of the credits claimed according to a statutory schedule.

By law, the commissioner may charge the entity that made the investment for the cost of conducting this study. The act extends this requirement to contractually-bound CDEs that receive UISR credits, but exempts them from the law's credit recapture provisions. The act instead makes these CDEs subject to the recapture provisions specified in (1) the allocation agreement with the CDFI Fund or, (2) if the agreement does not include any recapture provisions, federal regulations for New Markets tax credits.

The federal rules for recapturing credits are different than the state's rules. State law requires taxpayers to recapture UISR tax credits over a 10-year period, according to a statutory schedule, when a project fails to generate enough tax revenue to cover the foregone corporate business tax revenue.

The federal rules for recapturing New Markets tax credits are based on whether the CDE maintains its investment in qualified low-income communities. The U.S. Treasury Department monitors CDEs, tracks their investments, and requires investors to repay the credits based on a seven-year schedule if the CDE (1) ceases to exist, (2) fails to invest a substantial portion of its equity investment in a qualified low-income community business, or (3) redeems or otherwise cashes out its investment.

BRADLEY AIRPORT DEVELOPMENT ZONE CORPORATION TAX CREDIT

PA 10-98 created the Bradley Airport Development Zone and made businesses improving property in the zone eligible for the same corporation business tax credits available to businesses in the state's 17 enterprise zones. Under PA 10-98, the provisions authorizing the credits take effect October 1, 2011 and apply to income years beginning January 1, 2013, but also specify that businesses may begin claiming the credits on or after January 1, 2012. The act corrects this inconsistency by making the provision applicable to income years beginning on or after January 1, 2012.

BACKGROUND

New Markets Tax Credits

The New Markets tax credit program uses federal income tax credits to attract private capital for business projects in low-income areas. Investors seeking credits must access them through federally certified for-profit CDEs, which must annually apply for them to the CDFI Fund, administered by the U.S. Treasury Department. The credits equal 39% of the invested amount, and investors must claim them over seven years according to a statutory schedule.

CDEs must lend to or invest the funds in business projects or use them for other specified activities. Business projects include mixed residential and commercial real estate developments where the housing units generate no more than 80% of the project's income.

CDEs

In order to qualify for the urban and industrial sites reinvestment program, a CDE must be federally certified to receive New Markets tax credits. It must also be qualified to do business in the state and registered with the DECD commissioner. Its purpose must be to provide investment capital or financing for eligible projects, and it must be accountable to the residents of two or more designated towns through its governing board. Designated towns are those where taxpayers investing in urban reinvestment projects qualify for credits. They are the 17 towns with enterprise zones, 25 state-designated distressed municipalities (11 of which have enterprise zones), and the five towns with populations over 100,000 (all of which have enterprise zones).

OLR Tracking: RP:JR:JL:ro